

SOFER & HAROUN, LLP
INTELLECTUAL PROPERTY

317 Madison Avenue, Suite 910
New York, NY 10017
Tel: (212) 697-2800 Fax: (212) 697-3004

RECEIVED
CENTRAL FAX CENTER
JUL 05 2006

Facsimile Coversheet

To: ATTN: MR. PAUL SHANOSKI
Office of Petitions
United States Patent and Trademark Office

Date: July 5, 2006

Fax: 571 273 8300

Page 16, incl. this cover sh.

From: Valentina Papraniku
Paralegal

Re: Petition to Revive Unintentionally Abandoned Application
Under 37 CFR 1.137(b)
In re Application: Nichols et al.; Filed: November 29, 2000
For: CUTTING DEVICE

Confidentiality Statement

This transmission may contain information which is legally privileged or otherwise protected from disclosure. Its contents are confidential and intended for the addressee only, and must not be used, copied or disseminated by any person other than the addressee. The recipient is requested to notify the sender immediately of any error in transmission and to destroy any transmission not intended for the recipient.

RECEIVED
CENTRAL FAX CENTER
JUL 05 2006

PTO/SB/07 (09-04)

Approved for use through 07/31/2008, OMB 0651-0031

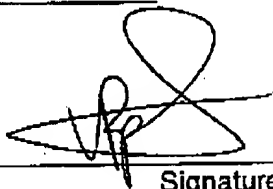
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on 7/5/06
Date



Signature

VALENTINA PAPRANIKU

Typed or printed name of person signing Certificate

Registration Number, if applicable

212-697-2800

Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

Petition to Revive Unintentionally Abandoned Application
under 37CFR 1.137(b) w/ 3 exhibits

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED
CENTRAL FAX CENTER
JUL 05 2006

Attorney Docket No. 688-098

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

-----X

In re Application of

Nichols et al.

Group Art Unit: 3724

Serial No.: 09/727,364

Filed: November 29, 2000

For: CUTTING DEVICE

-----X

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION
UNDER 37 CFR 1.137(b)

Via Facsimile (571) 273-8300**ATTN: PAUL SHANOSKI****Petitions**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

07/06/2006 NNGUYEN1 00000002 192025 09727364
01 FC:2453 750.00 DA

SIR:

In connection with the above identified application, we received a Decision on Petition dated June 28, 2006, denying a Petition to Withdraw Holding of Abandonment that was originally filed in August of 2003. The abandonment occurred on January 4, 2002 for failure to respond to the Office Action (Restriction Requirement) dated December 3, 2001. A copy of the Notice is attached as Exhibit A.

Pursuant to 37 CFR 1.137(b), Applicants hereby submit this Petition to Revive Unintentionally Abandoned Application to revive this application and continue prosecution on the merits.

Pursuant to 37 CFR 1.137(b)(1) the entire required reply is submitted herewith. To this end, enclosed is the required Petition For One Month Extension of Time so that

Application Serial No. 09/727,364
Petition Filed July 5, 2006

the originally filed response from January 16, 2002 may be considered. The Petition is attached as Exhibit B, with the fee to be taken from the deposit account noted on the Extension. A copy of the original January 16, 2002 Amendment in response to the Office Action of December 3, 2001, is attached as Exhibit C for the convenience of the patent Office.

Pursuant to 37 CFR 1.137(b)(2), the U.S. Patent and trademark Office is hereby authorized to charge the required fee of \$750.00 under 37 CFR 1.17(m), along with any other additional charges to deposit account number 19-2825, order number 688-098.

Pursuant to 37 CFR 1.137(b)(3), Applicants hereby assert that the entire delay in filing the attached Petition for Extension of Time and accompanying fee, up to the filing of this grantable petition was unintentional. At all times, the Applicants wished to continue prosecution on this application.

In view of the foregoing, Applicants submit that this Petition is in grantable order and respectfully request that the enclosed Petition for Extension of Time be entered and the accompanying January 16, 2002 Amendment be treated on its merits accordingly. If the Petitions officer reviewing this application requires any additional information they are invited to contact the undersigned at the telephone number listed below.

Date: July 5, 2006

By: 

Robert Haroun
Reg. No 34,345
Sofer & Haroun L.L.P.
317 Madison Ave, Suite 910
New York, New York 10017
(212) 697-2800
Facsimile (212) 697-3004

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Sofer & Haroun LLP
317 Madison Ave. Ste. 910
New York NY 10017

COPY MAILED

JUN 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Travis Nichols et al.	:	
Application No. 09/727,364	:	DECISION ON RENEWED PETITION
Filed: November 29, 2000	:	UNDER 37 C.F.R. §1.181(A)
Attorney Docket Number: 688-098	:	
Title: CUTTING DEVICE	:	

This is a decision on the renewed petition filed December 8, 2004, pursuant to 37 C.F.R. §1.181(a)¹, to revive the above-identified application.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed December 3, 2001, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 4, 2002. A Notice of abandonment was mailed on March 18, 2003.

¹ A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Application No. 09/727,364
Decision on Petition under 37 C.F.R. §1.181(a)

Page 2

The original petition was submitted on August 4, 2003, and was dismissed via the mailing of a decision on September 3, 2003.

With the present petition, Petitioner has asserted that a response was filed on January 16, 2002. Petitioner has further included a copy of a postcard receipt, which evinces that a "response to election requirement," "replacement pages," a "certificate of mailing," and a "return postcard" were received in the Office on February 8, 2002. As such, it is clear that a response was received, and subsequently misplaced in the Office.

The present petition cannot be granted for the following two reasons.

First, Petitioner will note that the Restriction Requirement was mailed on December 3, 2001, and set a shortened statutory period to reply for one month. As such, a reply was due no later than January 3, 2002. Petitioner has indicated that a response was not submitted until January 16, 2002 - as such, a one-month extension of time was required in order to make this response timely. As a petition for an extension of time does not appear on the postcard, it does not appear that one was submitted in conjunction with this response to the restriction requirement, and as such, the holding of abandonment was proper. Since Petitioner has failed to provide a copy of this response with either the original or this renewed petition, the Office has no way of determining whether the response contained a request for an extension of time.

Secondly, Petitioner was aware that the Office has no record of the receipt of his response to the restriction requirement - yet it does not appear that a copy of the same has been provided with this petition. As such, assuming *arguendo* that the response had been timely filed, there would be nothing for the Examiner to consider, as there is no response in the electronic file.

As such, the renewed petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C. 704.

Petitioner may wish to consider the submission of a petition under 37 C.F.R. §§1.137(a) and/or (b).

Application No. 09/727,364
Decision on Petition under 37 C.F.R. §1.181(a)

Page 3

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

4 (571) 273-8300- please note this is a central facsimile number.

EXHIBIT B

PATENTDocket No: 688-098IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Nichols et al.
 Serial No. : 09/727,364
 Filed : November 29, 2000
 For : CUTTING DEVICE

Group Art Unit: 3724

RECEIVED
 CENTRAL FAX CENTER
 JUL 05 2006

PETITION AND FEE FOR EXTENSION OF TIME (37 C.F.R. §1.136(a))

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

1. This is a petition for an extension of time for filing the Amendment originally submitted on January 16, 2002, and accompanying the presently filed Petition to Revive Unintentionally Abandoned Application.

2. The communication in connection with the matter for which this extension is requested

☐ is filed herewith.

☒ was filed on January 16, 2002, a copy of which is attached to the presently filed Petition to Revive Unintentionally Abandoned Application.

3. ☐ Applicant is a small-entity -- verified statement is attached ☐, or has already been filed. ☐.

4.		<u>Total Months Requested</u>	<u>Fee for Other than Small Entity</u>	<u>Fee for Small Entity</u>
a.	<input checked="" type="checkbox"/>	one month	\$120.00	\$60.00
b.	<input type="checkbox"/>	two months	\$450.00	\$225.00
c.	<input type="checkbox"/>	three months	\$1020.00	\$510.00
d.	<input type="checkbox"/>	four months	\$1590.00	\$795.00
e.	<input type="checkbox"/>	five months	\$2,160.00	\$1,080.00
f.	<input type="checkbox"/>	An extension for ____ months has already been secured for filing the above-identified communication and the fee paid therefor of \$ ____ is deducted from the total fee due for the total months of extension now requested. The fee for this extension (\$ ____), minus the fee previously paid (\$ ____), equals \$ ____ (total fee due).		

5. ☐ A check in the amount of _____ to cover the extension fee is attached.

6. ☒ Charge \$60.00 to Deposit Account No. 19-2825 Order No. 688-098.

7. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. 19-2825. Order No. 688-098.

Respectfully submitted,
 SOFER & HARDUN, L.L.P.

By: _____

Robert Hardun

Registration No. 34,345Dated: July 5, 2006

Mailing Address:
 317 Madison Avenue
 New York, New York 10017
 (212) 697-2800;
 Fax (212) 697-3004

EXHIBIT C

RECEIVED
CENTRAL FAX CENTER
JUL 05 2006

Attorney Docket: 688-098

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Nichols, et al.

Group Art Unit: 3724

Serial No.: 09/727,364

Examiner: Douglas D. Watts

Filed: November 29, 2000

For: **CUTTING DEVICE**

Hon. Commissioner of Patents and Trademarks
Washington, DC 20231

RESPONSE TO ELECTION REQUIREMENT

Sir:

In response to the Office Action dated December 3, 2001, in connection with the above-referenced application, please enter the following remarks. Replacement pages are attached hereto illustrating the unmarked claims. A petition for a one month extension of time is enclosed.

Remarks**Response to 35 U.S.C. § 121 Election Requirement**

In the Office Action dated December 3, 2001, the Examiner subjected claims 1-11 to a restriction or election requirement.

The Examiner divided the claims into two Species as follows: Species I consists of Figures 1-4 corresponding to claims 1-11 and Species II consists of Figures 5-9 corresponding to none of the pending claims. The Examiner has noted that claim 1 is generic to both species. In response to the Examiner's requirement for an election, Applicants provisionally elect to


prosecute **Species I**, namely the species related to Figures 1-4 and the claims readable thereon, namely **claims 1-11**. Species II relating to Figures 5-9, which has no currently pending claims readable thereon, will be addressed in a continuation application to be filed prior to the issue of this application.

An early favorable action on the merits is respectfully requested.

Respectfully submitted,

SOFER & HAROUN, L.L.P.

By


Robert Haroun
Reg. No. 34,345
342 Madison Avenue
Suite 1921
New York, NY
(212) 697-2800

Dated: 1/16/02

RECEIVED
CENTRAL FAX CENTER
JUL 05 2006

Attorney Docket No.: 688-098

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

-----X
In re application of
Nichols et al.

Examiner: Douglas D. Watts

Serial No: 09/727,364

Art unit: 3724

Filed: November 29, 2000

For: CUTTING DEVICE
-----X

RESPONSE TO FINAL OFFICE ACTION

Honorable Assistant Commissioner of Patents
Washington, DC 20231

Dear Sirs:

AMENDMENT
REPLACEMENT PAGES

Applicants submit these replacement pages to accompany the amendment attached hereto
in response to the Office Action dated December 3, 2001.

Replacement pages

What is claimed is:

1. A cutting device for use with a template to cut a media, said cutting device comprising:
 - a handle having a first end and a second attachment end;
 - a positioning stem having a mounting stem and a ring portion, said mounting stem positioned on said second attachment end so that said ring portion is spaced a distance from said second attachment end and defines a template notch;
 - a cutting means rotatably positioned within said ring portion for cutting said media, so that when said template notch of said cutting device is inserted into said template, a shape defining edge of said template is received in said template notch.
2. A cutting device as claimed in claim 1, wherein said second attachment end of said handle further comprises a handle recess, said handle recess being used to receive said mounting stem of said positioning stem.
3. A cutting device as claimed in claim 1, wherein said ring portion of said positioning stem is a ball bearing.
4. A cutting device as claimed in claim 1, wherein said cutting means is a knife.
5. A cutting device as claimed in claim 4, wherein said knife has an angled blade

Replacement pages

to facilitate the alignment of the knife along said shape defining edge of said template during operation.

6. A cutting device as claimed in claim 1, wherein said cutting means is removably attached to said ring portion of said mounting stem.
7. A cutting device as claimed in claim 1, wherein said handle is cylindrical.
8. A cutting device as claimed in claim 1, wherein said handle is constructed of a rigid transparent material such as Lucite.
9. A cutting device as claimed in claim 1, further comprising a cap for positioning over said second attachment end of said handle so that said positioning stem and said cutting means are protected.
10. A cutting device as claimed in claim 9, further comprising a blade notch for use in removing said cutting means from said ring positioning of said positioning stem.
11. A cutting device as claimed in claim 1, further comprising removable stand for positioning over said first end of said handle so as to facilitate storage when said cutting device is not in use.